

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 42, "Adjustments to Computed Tax," Chapter 43, "Assessments and Refunds," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," Iowa Administrative Code.

These amendments are proposed as a result of 2008 Iowa Acts, House Files 2689 and 2700, and 2008 Iowa Acts, Senate Files 572, 2124, 2400 and 2405.

Item 1 amends paragraphs 42.24(3)"d," "e" and "f" to provide that the wage-benefits tax credit for individual income tax will be allowed through the fiscal year ending June 30, 2011.

Item 2 adopts new subrule 42.24(5) to provide that the wage-benefits tax credit for individual income tax is repealed effective July 1, 2008, but that the wage-benefits credit will still be allowed through the fiscal year ending June 30, 2011. Item 3 amends the implementation sentence for rule 701—42.24(15), 422.

Items 4 and 6 amend rule 701—42.25(422, 476B) and subrule 42.25(2) to provide that the wind energy production tax credit for individual income tax is also available to facilities that will use the electricity for on-site consumption.

Item 5 amends subrule 42.25(1) to provide that for applications for the wind energy production tax credit filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts.

Item 7 amends subrule 42.25(3) to eliminate the provision that the wind energy production tax credit for individual income tax can only be transferred once. Item 8 amends the implementation sentence for rule 701—42.25(422, 476B).

Item 9 amends rule 701—42.32(422) to provide that the computation and eligibility requirements for the biodiesel blended fuel tax credit for individual income tax will be done on a site-by-site basis for tax years beginning on or after January 1, 2009.

Items 10 and 11 amend rule 701—42.33(422) and paragraph 42.33(1)"a" to provide that the soy-based transformer fluid tax credit for individual income tax is available for costs incurred through December 31, 2008. Item 12 amends the implementation sentence for rule 701—42.33(422).

Item 13 amends subrule 42.35(2) to provide for an alternative format for submitting qualified expenditures relating to the film qualified expenditure tax credit for individual income tax.

Items 14 and 15 amend subrules 42.35(3) and 42.36(2) to eliminate the restriction that tax credit certificates for the film qualified expenditure tax credit and the film investment tax credit for individual income tax can only be transferred if the amount was \$1,000 or more.

Items 16 and 17 amend subrules 43.4(8) and 43.4(9) to provide that the veterans trust fund checkoff and the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund checkoff are only in effect until tax years beginning prior to January 1, 2008.

Item 18 adopts new subrules 43.4(10) and 43.4(11) to provide for the child abuse prevention program fund checkoff and the joint veterans trust fund and volunteer firefighter preparedness fund checkoff that takes effect for tax years beginning on or after January 1, 2008. Item 19 amends the implementation sentence for rule 701—43.4(68A, 422, 456A).

Item 20 amends subrule 52.1(10) to provide for the repeal of the deferment of income for start-up companies effective for tax years beginning on or after January 1, 2008. Item 21 amends the implementation sentence for rule 701—52.1(422).

Item 22 amends paragraphs 52.25(3)“d,” “e” and “f” to provide that the wage-benefits tax credit for corporation income tax will be allowed through the fiscal year ending June 30, 2011. This is similar to the change in Item 1.

Item 23 adopts new subrule 52.25(5) to provide that the wage-benefits tax credit for corporation income tax is repealed effective July 1, 2008, but that the wage-benefits credit will still be allowed through the fiscal year ending June 30, 2011. This is similar to the change in Item 2. Item 24 amends the implementation sentence for rule 701—52.25(15I,422).

Items 25 and 27 amend rule 701—52.26(422,476B) and subrule 52.26(2) to provide that the wind energy production tax credit for corporation income tax is also available to facilities that will use the electricity for on-site consumption. This is similar to the change in Items 4 and 6.

Item 26 amends subrule 52.26(1) to provide that for applications for the wind energy production tax credit filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts. This is similar to the change in Item 5.

Item 28 amends subrule rule 52.26(3) to eliminate the provision that the wind energy production tax credit for corporation income tax can only be transferred once. This is similar to the change in Item 7. Item 29 amends the implementation sentence for rule 701—52.26(422,476B).

Item 30 amends rule 701—52.31(422) to provide that the computation and eligibility requirements for the biodiesel blended fuel tax credit for corporation income tax will be done on a site-by-site basis for tax years beginning on or after January 1, 2009. This is similar to the change in Item 9.

Items 31, 32 and 33 amend rule 701—52.32(422), paragraph 52.32(1)“a” and the implementation clause for rule 701—52.32(422) to provide that the soy-based transformer fluid tax credit for corporation income tax is available for costs incurred through December 31, 2008. This is similar to the change in Items 10 and 11.

Item 34 amends subrule 52.34(2) to provide for an alternative format for submitting qualified expenditures relating to the film qualified expenditure tax credit for corporation income tax. This is similar to the change in Item 13.

Items 35 and 36 amend subrules 52.34(3) and 52.35(2) to eliminate the restriction that tax credit certificates for the film qualified expenditure tax credit and the film investment tax credit for corporation income tax can only be transferred if the amount was \$1,000 or more. This is similar to the change in Items 14 and 15.

Item 37 amends rule 701—58.14(15I,422) to reference the repeal of the wage-benefits credit for franchise tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written comments should be directed to the Policy Section, Taxpayer

Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

These amendments are intended to implement Iowa Code chapter 15I as amended by 2008 Iowa Acts, House File 2700; Iowa Code Supplement section 422.11P as amended by 2008 Iowa Acts, House File 2689; Iowa Code Supplement section 422.33 as amended by 2008 Iowa Acts, House File 2689 and Senate File 572; Iowa Code section 422.24A as amended by 2008 Iowa Acts, Senate File 2400; Iowa Code Supplement section 422.11R as amended by 2008 Iowa Acts, Senate File 572; 2008 Iowa Acts, Senate File 2124; Iowa Code chapter 476B as amended by 2008 Iowa Acts, Senate File 2405; and Iowa Code chapter 476D as amended by 2008 Iowa Acts, Senate File 572.

The following amendments are proposed.

ITEM 1. Amend paragraphs **42.24(3)“d,” 42.24(3)“e” 42.24(3)“f”** as follows:

d. The tax credit certificates that are issued in a fiscal year cannot exceed \$10 million for the fiscal year ending June 30, 2007, and shall not exceed \$4 million for the fiscal ~~year~~ years ending June 30, 2008, ~~and for subsequent fiscal years through June 30, 2011.~~ The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the \$10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the \$10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the \$4 million limit for the fiscal ~~year~~ years ending June 30, 2008, ~~and for subsequent fiscal years through June 30, 2011,~~ any applications for tax credit certificates received after the \$4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the \$10 million or \$4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the ~~four subsequent tax years~~ fiscal years ending June 30, 2008, through June 30, 2011, subject to the \$4 million limit for tax credits for ~~subsequent years~~ the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of ~~these subsequent tax years~~ the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 42.24(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first \$4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for ~~a subsequent year~~ the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

f. ~~After~~ For the fiscal ~~year~~ years ending June 30, ~~2007~~ 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first \$4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of \$4 million are issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the \$4 million in wage-benefits tax credits filed applications totaling \$3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first \$3 million of the available \$4 million will be allowed to these same businesses. The remaining \$1 million that is still available for the year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining \$1 million in tax credits is issued.

ITEM 2. Adopt the following new subrule 42.24(5):

42.24(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in subrule 42.24(3), paragraphs “d,” “e,” and “f.” A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

ITEM 3. Amend rule **701—42.24(15I,422)**, as follows:

This rule is intended to implement Iowa Code chapter 15I as amended by ~~2007 Iowa Acts, Senate File 601, section 82~~ 2008 Iowa Acts, House File 2700, section 167, and Iowa Code section 422.11L.

ITEM 4. Amend rule 701—42.25(422,476B), as follows:

701—42.25(422,476B) Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer’s Iowa individual income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule 199—15.18(476B).

ITEM 5. Amend subrule 42.25(1), as follows:

42.25(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, ~~2009~~ 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts. In addition, the facility must also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.

ITEM 6. Amend subrule 42.25(2) as follows:

42.25(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer’s name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 42.25(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The

department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 7. Amend subrule 42.25(3), as follows:

42.25(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred ~~once~~ to any person or entity.

ITEM 8. Amend rule **701—42.25(422,476B)**, as follows:

This rule is intended to implement Iowa Code section 422.11J and chapter 476B as amended by 2008 Iowa Acts, Senate File 2405.

ITEM 9. Amend rule **701—42.32(422)** as follows:

701—42.32(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. For tax years beginning on or after January 1, 2009, the biodiesel blended fuel tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel.

The tax credit equals three cents multiplied by the ~~total~~ qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA8864.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel, and the other site sold 10,000 gallons of biodiesel blended fuel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2006 tax year. If the facts in this example had occurred during the 2009 tax year, the taxpayer could claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel fuel requirement.

42.32(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2012, a taxpayer whose tax year ends prior to December 31, 2011, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2011, provided that 50 percent of all diesel fuel sold at qualifying retail motor fuel sites during that period was biodiesel blended fuel.

See 701—subrule 52.31(1) for examples illustrating how this subrule is applied.

42.32(2) No change.

This rule is intended to implement ~~2006 Iowa Acts, House File 2754, section 41~~ Iowa Code Supplement section 422.11P as amended by 2008 Iowa Acts, House File 2689, sections 31 and 32.

ITEM 10. Amend rule **701—42.33(422)**, as follows:

701—42.33(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, ~~2008~~ 2009, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

ITEM 11. Amend paragraph **42.33(1)“a”** as follows:

a. The costs must be incurred after June 30, 2006, and before January 1, ~~2008~~ 2009.

ITEM 12. Amend rule **701—42.33(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code Supplement section 422.11R as amended by 2006 Iowa Acts, Senate File 2402 2008 Iowa Acts, Senate File 572.

ITEM 13. Amend subrule 42.35(2), as follows:

42.35(2) Claiming the tax credit. Upon completion of the registered project in Iowa, the taxpayer must submit to the film office a completed Form Z, Schedule of Qualified Expenses, or an alternative to Form Z in a format approved by IDED prior to production, listing the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

ITEM 14. Amend subrule 42.35(3), as follows:

42.35(3) Transfer of the film qualified expenditure tax credit. The film qualified expenditure tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 15. Amend subrule 42.36(2), as follows:

42.36(2) *Transfer of the film investment tax credit.* The film investment tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 16. Amend subrule 43.4(8), as follows:

43.4(8) *Veterans trust fund checkoff.* For tax years beginning on or after January 1, 2006, but before January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the veterans trust fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the veterans trust fund, the amount credited to the veterans trust fund will be reduced accordingly. Once the taxpayer has designated a contribution to the veterans trust fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

ITEM 17. Amend subrule 43.4(9), as follows:

43.4(9) *Joint keep Iowa beautiful fund and volunteer firefighter preparedness fund checkoff.* For tax years beginning on or after January 1, 2006, but before January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund, the amount credited to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint keep Iowa beautiful fund and volunteer firefighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

ITEM 18. Adopt the following **new** subrules 43.4(10) and 43.4(11):

43.4(10) *Child abuse prevention program fund checkoff.* For tax years beginning on or after January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the child abuse prevention program fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the child abuse prevention program fund, the amount credited to the child abuse prevention program fund will be reduced accordingly. Once the taxpayer has designated a contribution to the child abuse prevention program fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the child abuse prevention program fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff and the state fair foundation checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the child abuse prevention program fund are due, the department of revenue shall transfer the total amount designated to the child abuse prevention program fund.

43.4(11) *Joint veterans trust fund and volunteer fire fighter preparedness fund checkoff.* For tax years beginning on or after January 1, 2008, a taxpayer filing an individual income tax return can designate a checkoff of \$1 or more to the joint veterans trust fund and volunteer fire fighter preparedness fund. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the joint veterans trust fund and volunteer fire fighter preparedness fund, the amount credited to the joint veterans trust fund and volunteer fire fighter preparedness fund will be reduced accordingly. Once the taxpayer has designated a contribution to the joint veterans trust fund and volunteer fire fighter preparedness fund on an individual income tax return filed with the department of revenue, the taxpayer cannot amend that designation.

A designation to the joint veterans trust fund and volunteer fire fighter preparedness fund checkoff may be allowed only after obligations of the taxpayer to the department of revenue, the child support recovery unit of the department of human services, the foster care recovery unit of the department of human services, the college student aid commission, the office of investigations of the department of human services, the district courts, other state agencies, the Iowa election campaign checkoff, the Iowa fish and game protection fund checkoff, the state fair foundation checkoff and the child abuse prevention program fund checkoff are satisfied.

On or before January 31 of the year following the year in which Iowa income tax returns with contributions to the joint veterans trust fund and volunteer fire fighter preparedness fund are due, the department of revenue shall transfer one-half of the total amount designated to the veterans trust fund, and the remaining one-half will be transferred to the volunteer fire fighter preparedness fund.

ITEM 19. Amend rule **701—43.4(68A,422,456A)**, as follows:

This rule is intended to implement Iowa Code ~~section~~ sections 422.12D, and section 422.12E, as amended by 2007 Iowa Acts, House File 923 and 422.12H and 2008 Iowa Acts, Senate File 2124, division II.

ITEM 20. Amend subrule 52.1(10), as follows:

52.1(10) *Deferment of income for start-up companies.* For tax periods beginning on or after January 1, 2002, but before January 1, 2008, a business that qualifies as a “start-up” business can defer taxable income for the first three years that the business is in operation. The deferment of income for start-up companies is repealed effective for tax years beginning on or after January 1, 2008.

ITEM 21. Amend rule **701—52.1(422)**, as follows:

This rule is intended to implement Iowa Code sections 422.21, ~~422.24A,~~ 422.32, 422.33, 422.34, 422.34A, and 422.36 and Iowa Code section 422.24A as amended by 2008 Iowa Acts, Senate File 2400, section 66.

ITEM 22. Amend paragraphs **52.25(3)“d,” 52.25(3)“e” 52.25(3)“f”** as follows:

d. The tax credit certificates that are issued in a fiscal year cannot exceed \$10 million for the fiscal year ending June 30, 2007, and shall not exceed \$4 million for the fiscal ~~year years~~ ending June 30, 2008, ~~and for subsequent fiscal years through June 30, 2011.~~ The tax credit certificates are issued on a first-come, first-served basis. Therefore, if tax credit certificates have already been issued for the \$10 million limit for the fiscal year ending June 30, 2007, any applications for tax credit certificates received after the \$10 million limit has been reached will be denied. Similarly, if tax credit certificates have already been issued for the \$4 million limit for the fiscal ~~year years~~ ending June 30, 2008, ~~and for subsequent fiscal years through June 30, 2011,~~ any applications for tax credit certificates received after the \$4 million limit has been reached will be denied. If a business failed to receive all or a part of the tax credit due to the \$10 million or \$4 million limitation, the business may reapply for the tax credit for the retained new job for a subsequent tax period.

e. A business which qualifies for the tax credit for the fiscal year ending June 30, 2007, is eligible to receive the tax credit certificate for each of the ~~four subsequent tax years~~ fiscal years ending June 30, 2008 through June 30, 2011, subject to the \$4 million limit for tax credits for ~~subsequent years~~ the fiscal years ending June 30, 2008, through June 30, 2011, if the business retains the qualified new job during each of ~~these subsequent tax years~~ the fiscal years ending June 30, 2008, through June 30, 2011. The business must reapply by June 30 of each fiscal year for the tax credit, and the percentage of the wages and benefits allowed for the credit set forth in subrule 52.25(2) for the first year is applicable for each subsequent period. Preference will be given in issuing tax credit certificates for those businesses that retain qualified new jobs, and preference will be given in the order in which applications were filed for the fiscal year ending June 30, 2007. Therefore, those businesses which received the first \$4 million of tax credits for the year ending June 30, 2007, in which the qualified jobs were created will automatically receive a tax credit for ~~a subsequent year~~ the fiscal years ending June 30, 2008, through June 30, 2011, as long as the qualified jobs are retained and an application is completed.

~~f.~~ After For the fiscal year years ending June 30, 2007 2008, through June 30, 2011, if credits become available because the jobs were not retained by businesses which received the first \$4 million of credits for the year ending June 30, 2007, an application which was originally denied will be considered in the order in which the application was received for the fiscal year ending June 30, 2007.

EXAMPLE: Wage-benefits tax credits of \$4 million were issued for the fiscal year ending June 30, 2007, relating to applications filed between July 1, 2006, and March 31, 2007. For the next fiscal year ending June 30, 2008, the same businesses that received the \$4 million in wage-benefits tax credits filed applications totaling \$3 million for the retained jobs for which the application for the prior year was filed on or before March 31, 2007. The first \$3 million of the available \$4 million will be allowed to these same businesses. The remaining \$1 million that is still available for the year ending June 30, 2008, will be allowed for those retained jobs for which applications for the prior year were filed starting on April 1, 2007, until the remaining \$1 million in tax credits is issued.

ITEM 23. Adopt the following new subrule 52.25(5):

52.25(5) *Repeal of the wage-benefits tax credit.* The wage-benefits tax credit is repealed effective July 1, 2008. However, the wage-benefits tax credit is still available through the fiscal year ending June 30, 2011, as provided in subrule 52.25(3), paragraphs “d,” “e,” and “f.” A business is not entitled to a wage-benefits tax credit for a qualified new job created on or after July 1, 2008.

ITEM 24. Amend rule ~~701—52.25(15I,422)~~, as follows:

This rule is intended to implement Iowa Code chapter 15I as amended by ~~2007 Iowa Acts, Senate File 601, section 82~~ 2008 Iowa Acts, House File 2700, section 167, and Iowa Code section 422.33(18).

ITEM 25. Amend rule ~~701—52.26(422,476B)~~, as follows:

~~701—52.26(422,476B)~~ Wind energy production tax credit. Effective for tax years beginning on or after July 1, 2006, an owner of a qualified wind energy production facility that has been approved by the Iowa utilities board may claim a wind energy production tax credit for qualified electricity sold by the owner or used for on-site consumption against a taxpayer’s Iowa corporation income tax liability. The administrative rules for the certification of eligibility for the wind energy production tax credit for the Iowa utilities board may be found in rule ~~199—15.18(476B)~~.

ITEM 26. Amend subrule 52.26(1), as follows:

52.26(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but before July 1, ~~2009~~ 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least two megawatts. In addition, the facility must also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.

ITEM 27. Amend subrule 52.26(2) as follows:

52.26(2) *Computation of the credit.* The wind energy production credit equals one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the tax year. For the first tax year in which the credit is applied, the kilowatt-hours of qualified electricity sold may exceed 12 months.

EXAMPLE: A qualified facility was placed in service on April 1, 2006, and the taxpayer files on a calendar-year basis. The first year for which the credit can be claimed is the period ending December 31, 2007, since that is the first tax year that began on or after July 1, 2006. The credit for the 2007 tax year can include electricity sold between April 1, 2006, and December 31, 2007.

The credit is not allowed for any kilowatt-hours of electricity sold to a related person. The definition of “related person” uses the same criteria set forth in Section 45(e)(4) of the Internal Revenue Code relating to the federal renewable electricity production credit. Persons shall be treated as related to each

other if such persons are treated as a single employer under Treasury Regulation §1.52-1. In the case of a corporation that is a member of an affiliated group of corporations filing a federal consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to the person by another member of the affiliated group.

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.26(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board.

If the taxpayer is a partnership, limited liability company, S corporation, or estate or trust requesting a credit for individual or corporation income tax, the tax credit certificate will be issued to the partners, members, shareholders or beneficiaries based on the partner's, member's, shareholder's or beneficiary's pro-rata share of earnings of the partnership, limited liability company, S corporation, or estate or trust, except when the taxpayer is eligible to receive renewable electricity production tax credits authorized under Section 45 of the Internal Revenue Code. In cases where the taxpayer is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the partnership, limited liability company or S corporation may designate the amount of the tax credit to be allocated to each partner, member or shareholder. In addition, if a taxpayer is a partnership, limited liability company, S corporation, or estate or trust that is eligible to receive renewable electricity production tax credits under Section 45 of the Internal Revenue Code, the taxpayer may distribute the tax credit to an equity holder or beneficiary as a liquidating distribution or portion thereof, of an equity holder's interest in the partnership, limited liability company or S corporation, or the beneficiary's interest in the estate or trust.

The credit can be allowed for a ten-year period beginning on the date the qualified facility was originally placed in service. For example, if a facility was placed in service on April 1, 2006, the credit can be claimed for kilowatt-hours of electricity sold between April 1, 2006, and March 31, 2016.

To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax year set forth on the certificate. Any tax credit in excess of the tax liability may be carried forward for seven years or until it is used, whichever is the earlier.

ITEM 28. Amend subrule 52.26(3), as follows:

52.26(3) *Transfer of the wind energy production tax credit certificate.* The wind energy production tax credit certificate may be transferred ~~once~~ to any person or entity.

ITEM 29. Amend rule **701—52.26(422,476B)**, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476B as amended by 2008 Iowa Acts, Senate File 2405.

ITEM 30. Amend rule 701—52.31(422) as follows:

701—52.31(422) Biodiesel blended fuel tax credit. Effective for tax years beginning on or after January 1, 2006, a retail dealer of biodiesel blended fuel may claim a biodiesel blended fuel tax credit. "Biodiesel blended fuel" means a blend of biodiesel with petroleum-based diesel fuel which meets the standards provided in Iowa Code section 214A.2. The biodiesel blended fuel must be formulated with a minimum percentage of 2 percent by volume of biodiesel, if the formulation meets the standards provided by section 214A.2, to qualify for the tax credit. In addition, of the total gallons of diesel fuel sold by the retail dealer, 50 percent or more must be biodiesel blended fuel to be eligible for the tax credit for tax years beginning prior to January 1, 2009. For tax years beginning on or after January 1, 2009, the biodiesel blended fuel

tax credit is calculated separately for each retail motor fuel site for which 50 percent or more of the total gallons of diesel fuel sold at the motor fuel site was biodiesel blended fuel.

The tax credit equals three cents multiplied by the ~~total~~ qualifying number of biodiesel blended fuel gallons sold by the taxpayer during the tax year. For purposes of this rule, tank wagon sales are considered retail sales. The credit is calculated on Form IA8864.

Any credit in excess of the taxpayer's tax liability is refundable. In lieu of claiming the refund, the taxpayer may elect to have the overpayment credited to the tax liability for the following tax year.

EXAMPLE: A taxpayer operated four retail motor fuel sites during 2006 and sold a combined total at all four sites of 100,000 gallons of diesel fuel, of which 55,000 gallons was biodiesel blended fuel containing a minimum percentage of 2 percent by volume of biodiesel. Because 50 percent or more of the diesel fuel sold was biodiesel blended fuel, the taxpayer may claim the biodiesel blended fuel tax credit totaling \$1,650, which is 55,000 gallons multiplied by three cents.

EXAMPLE: A taxpayer operated two retail motor fuel sites during 2006, and each site sold 40,000 gallons of diesel fuel. One site sold 25,000 gallons of biodiesel blended fuel, and the other site sold 10,000 gallons of biodiesel blended fuel. The taxpayer would not be eligible for the biodiesel blended fuel tax credit because only 35,000 gallons of the total 80,000 gallons, or 43.75 percent of the total diesel fuel gallons sold, was biodiesel blended fuel. The 50 percent requirement is based on the aggregate number of diesel fuel gallons sold by the taxpayer, and the fact that one retail motor fuel site met the 50 percent requirement does not allow the taxpayer to claim the biodiesel blended fuel tax credit for the 2006 tax year. If the facts in this example had occurred during the 2009 tax year, the taxpayer could claim a biodiesel blended fuel tax credit totaling \$750, which is 25,000 gallons multiplied by three cents, since one of the retail motor fuel sites met the 50 percent biodiesel fuel requirement.

52.31(1) Fiscal year filers. For taxpayers whose tax year is not on a calendar-year basis and whose tax year ends before December 31, 2006, the taxpayer may compute the tax credit on the gallons of biodiesel blended fuel sold during the period from January 1, 2006, through the end of the tax year, provided that 50 percent of all diesel fuel sold during that period was biodiesel blended fuel. Because the tax credit is repealed on January 1, 2012, a taxpayer whose tax year ends prior to December 31, 2011, may continue to claim the tax credit in the following tax year for any biodiesel blended fuel sold through December 31, 2011, provided that 50 percent of ~~all~~ diesel fuel sold at qualifying retail motor fuel sites during that period was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending April 30, 2006. The taxpayer sold 60,000 gallons of diesel fuel for the period from May 1, 2005, through April 30, 2006, of which 28,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through April 30, 2006, the taxpayer sold 20,000 gallons of diesel fuel, of which 12,000 gallons was biodiesel blended fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of \$360 (12,000 gallons times 3 cents) on the taxpayer's Iowa income tax return for the period ending April 30, 2006, since more than 50 percent of all diesel fuel sold during the period from January 1, 2006, through April 30, 2006, was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending June 30, 2006. The taxpayer sold 80,000 gallons of diesel fuel for the period from July 1, 2005, through June 30, 2006, of which 42,000 gallons was biodiesel blended fuel. However, for the period from January 1, 2006, through June 30, 2006, the taxpayer sold 40,000 gallons of diesel fuel, of which 19,000 gallons was biodiesel blended fuel. The taxpayer is not entitled to claim the biodiesel blended fuel tax credit on the taxpayer's Iowa income tax return for the period ending June 30, 2006, since less than 50 percent of all diesel fuel sold during the period from January 1, 2006, through June 30, 2006, was biodiesel blended fuel, even though more than 50 percent of all diesel fuel sold during the period from July 1, 2005, through June 30, 2006, was biodiesel blended fuel.

EXAMPLE: A taxpayer who operates one retail motor fuel site has a fiscal year ending February 28, 2012. The taxpayer sold 100,000 gallons of diesel fuel for the period from March 1, 2011, through February 28, 2012, of which 60,000 gallons was biodiesel blended fuel. For the period from March 1, 2011, through December 31, 2011, the taxpayer sold 85,000 gallons of diesel fuel, of which 50,000 gallons was biodiesel fuel. The taxpayer is entitled to claim the biodiesel blended fuel tax credit of

\$1,500 (50,000 gallons times 3 cents) on the taxpayer's Iowa income tax return for the period ending February 12, 2012, since the credit is computed only on gallons sold through December 31, 2011.

52.31(2) No change.

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by ~~2006 Iowa Acts, House File 2754~~ 2008 Iowa Acts, House File 2689, section 33.

ITEM 31. Amend rule 701—52.32(422), as follows:

701—52.32(422) Soy-based transformer fluid tax credit. Effective for tax periods ending after June 30, 2006, and beginning before January 1, ~~2008~~ 2009, an electric utility may claim a soy-based transformer fluid tax credit. An electric utility, which is a public utility, city utility, or electric cooperative which furnishes electricity, may claim ~~the~~ a credit equal to the costs incurred during the tax year for the purchase and replacement costs relating to the transition from using nonsoy-based transformer fluid to using soy-based transformer fluid.

ITEM 32. Amend paragraph **52.32(1)“a”** as follows:

a. The costs must be incurred after June 30, 2006, and before January 1, ~~2008~~ 2009.

ITEM 33. Amend rule **701—52.32(422)**, as follows:

This rule is intended to implement Iowa Code Supplement section 422.33 as amended by ~~2006 Iowa Acts, Senate File 2402~~ 2008 Iowa Acts, Senate File 572.

ITEM 34. Amend subrule 52.34(2), as follows:

52.34(2) Claiming the tax credit. Upon completion of the registered project in Iowa, the taxpayer must submit to the film office a completed Form Z, Schedule of Qualified Expenses, or an alternative to Form Z in a format approved by IDED prior to production, listing the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

ITEM 35. Amend subrule 52.34(3), as follows:

52.34(3) Transfer of the film qualified expenditure tax credit. The film qualified expenditure tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 36. Amend subrule 52.35(2), as follows:

52.35(2) Transfer of the film investment tax credit. The film investment tax credit may be transferred no more than two times to any person or entity. ~~In addition, a tax credit certificate of less than \$1,000 shall not be transferable.~~

ITEM 37. Amend rule 701—58.14(15I,422) as follows:

701—58.14(15I,422) Wage-benefits tax credit. Effective for tax years ending on or after June 9, 2006, a wage-benefits tax credit, subject to the availability of the credit, equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in Iowa is available for eligible financial institutions. For information on the eligibility for the wage-benefits tax credit, how to file applications for the wage-benefits tax credit, how the wage-benefits tax credit is computed, the repeal of the wage-benefits credit effective July 1, 2008, and other details about the credit, see rule 701—52.25(15I,422).

This rule is intended to implement Iowa Code Supplement chapter 15I as amended by 2008 Iowa Acts, House File 2700, section 167, and Iowa Code Supplement section 422.60(10) as amended by 2008 Iowa Acts, House File 2700, section 164.